James Stewart's ANSWER

To a Letter writ by

Mijn Heer Fagel

Penſioner to the States of

Holland & Weſt-Frieſland,

Concerning the

REPEAL

Of the

Penal Laws and Teſts.

This may be Printed *Ja. Vernon.*

London, Printed and are to be ſold, by *Andrew Sowle*, at the *Three Kyes*; in *Nags-Head Court* in *Grace-Church Street* over-againſt the *Conduit*.

BRITISH MUSEUM

James Stewart's
ANSWER
To
Penſioner Fagel's
LETTER.

My Lord,

I Was ſo much ſurpriſed to ſee a Letter appear in Print, in *January* laſt, Entituled *A Letter writ by* Mijn Heer Fagel *Penſioner of* Holland *to* Mr James Stewart *Advocate, giving an account of the* Prince *and* Princeſs *of* Orange's *thoughts concerning the Repeal of the Teſts, and of the Penal Laws*; that reflecting on my own meanneſs, with the far different figure that your Lordſhip makes in the World, and withal conſidering the remoteneſs of the occaſion given for *that Letter*, the high and tender import of the matters therein treated, with the obvious Singularity of ſuch a forraign Interpoſition, beyond all ordinary lines and rules, I was, at firſt inclined to diſ-believe my own Eyes.

True it is, that after my return into *England* in *July* laſt, I was ſo well ſatisfied with what I obſerved of his *Majeſties* ſincere Intention, and ſteady Reſolution, to perfect the Settlement of our Religious Liberty by a Le-

gal and Perpetual Eſtabliſhment, (which I doubted not would calm the late violent diſtractions of theſe Kingdoms, and in the end overcome that froward oppoſition which remains in ſome Spirits, too narrow for ſuch a Bleſſing) that I thought I could not, in my little *Sphere*, do a piece of better Service both to God and Man, than to contribute my ſmall endeavours, towards the advancing of ſo good a Work, and particularly, towards the removing of ſome miſtakes and jealouſies, which I knew to be entertained in thoſe parts that I had left.

For this end, having obtained leave to write to a private Friend, who I judged might have opportunity to repreſent any thing I could ſay, to the beſt advantage, I did by ſeveral Letters directed to him (for to your Lordſhip I neither ſent nor directed any, as looking upon that to be a thing not only too preſumtuous, but alſo moſt improper, and againſt which I was expreſly cautioned) declare in what a different poſture I had found things in theſe Kingdoms, from what I and others had believed them, while I was in *Holland*; and having in two of them eſpecially, (the only Letters intended for communication) laid down for my ground his *Majeſties* Sincerity in all this affair, evident not only by his Royal Word, but even demonſtrable by things themſelves, I proceeded to evince by a few Arguments the Equity and Expediency of repealing both *Teſts* and *Penal Laws*, and that with a peculiar regard to the *Prince* and *Princeſs of Orange's* intereſt.

their Highneſſes Reluctancy to the thing, and Uneaſineſs about it, eſpecially as to the Repeal of the *Teſt*; and wiſhing, as I do ſtill, that from the beginning they had complyed more heartily with his *Majeſties* pleaſure for the eſtabliſhing of this *Liberty*, and that they would yet reſolve to concur with him in it, or that at leaſt the obſtruction of their known Diſſent might be removed; I adventured to add the beſt perſwaſives I could think on for that effect; deſiring in the end that what I had written ſhould be imparted to Friends, & chiefly to thoſe at the *Hague*, (whereof I hope your Lordſhip is ſtill One, according to the honour you were pleaſed to allow me while I was there) for their more full Information and Satisfaction. And this, to the beſt of my remembrance, is the Sum and Subſtance of all I writ on that occaſion.

To this, after ſome waiting, I had my Friends Anſwer, telling me that he had confer'd with you upon the Subject, and found that the *Prince* had already declared himſelf in theſe matters, and particularly to the *Lord Albeville* His *Majeſties Envoy*; and that He was not to be moved to go any greater length in them than he had then expreſt. That Anſwer having drawn from me a Return of ſome more earneſt Expreſſions of my grief for ſo great an unhappineſs, I reſolv'd to inſiſt no further. Only my Friend inſinuating that he had ſtill hopes to get a more diſtinct and ſatisfying Anſwer from a better hand, (tho without naming any perſon) I attended the iſſue: And accordingly about the beginning of *November* (almoſt three Months after my firſt writing) he ſent me

a Letter from your Lordſhip writ in *Latin*, with an *Engliſh* Verſion.

Thoſe I received at *London*: And acknowledge with all humility the ſingular Honour you were pleaſed to do me therein; which on any other occaſion I ſhould certainly have expreſſed my ſenſe of, with all readineſs. But finding them to be Letters directly from your Lordſhip, (to whom I had not written) and that they contained an account of their Highneſſes thoughts, about the Repeal of the *Teſts* and *Penal Lawes*, (which I had not deſired) together with your own Reaſonings in juſtification thereof; Both your publick Character, and the matters treated, moved me to put them immediately out of my hands, in the moſt ſafe and dutiful manner; reſolving rather to refer my ſelf to the knowledge that ſome perſons had of my ways, for clearing the miſtake inſinuated in the entry of your Letter, (as if I had preſumed to write to you, or for ſuch a purpoſe) than to purſue with more noiſe an explication of what I thought would proceed no further. Yet my Friend adviſing me, by the next Poſt after that which brought your Letter, that when you gave it to him, you told him you had given out a Copy or two to Friends there; And my Apprehenſions ſuggeſting that a Letter, ſo dilligently and accurately writ upon ſo ſlender an occaſion, might either have a further proſpect, or at leaſt be further made uſe of, I immediately returned him anſwer, that, tho I was confident you were far from interpoſing in his *Majeſties* affairs, by cauſing any thing to be

be printed to his Diſſervice, and no leſs aſſured that you would not ſuffer ſo obſcure a name as mine to be unneceſſarily heard of in ſo great matters, yet I knew how ready ſome perſons in your Parts were to lay hold on any thing that might croſs his *Majeſties* purpoſe for the Eſtabliſhing of this *Liberty*; and therfore I intreated him to uſe his utmoſt indeavours for the prevention thereof. And accordingly I had his return, that though he feared you were no more Maſter of the Copies you had given out, yet as to my private Letters, writ ſo familiarly and ingenuouſly to himſelf, he would undoubtedly ſecure them.

So that truly when I firſt ſaw the *printed Letter* above mentioned, and perceived by the *Impreſſion* that it was done in *Holland*, I did not doubt but it was done without your Lordſhips privity, and therefore laid it aſide without once Reading it.

But nowthat there is come abroad a new Print in your Lordſhips name, (upon what provocation I know not) which plainly affirms " *That you were very earneſtly de-* " *ſired by me to write what were the* Prince *and* Princeſs *of* " Orange's *thoughts, concerning the Repealing of the Teſt* " *and Penal Laws, and that it was intimated to you that theſe* " *preſſing deſires were made by his* Majeſties *Knowledge and Allowance*; I can no longer forbear, for the vindication of his *Majeſties* Honour, and my own Duty, to crave leave to ſay, with all ſubmiſſion, that the difference of this Account from what I have above repreſented, (and which I am ſure is true in every point) muſt of neceſſity flow from ſome miſtake in the Report you have had of my Letters.

Letters. For ſince I did not write any Letter to your ſelf, and that my writing to my Friend was not out of any curioſity to know their Highneſſes thoughts about the Repealing of *Penal Laws* and *Teſts*, (which it is evident I already knew ſufficiently, and which had been, as you well ſay, before particularly ſignified to the *Marquiſs* of *Albeville*) But for a quite different purpoſe, as I have before ingenuouſly repreſented it; How could his Majeſties *Knowledge* and Allowance be avouched by me for that which was not? It is true, I find it ſaid in one of mine, *That what I writ on the nineteenth of* July *was writ not only with Permiſſion, but according to his* Majeſties *minde ſufficiently expreſſed.* And this may alſo have been elſewhere repeated in other terms. But its as true that the intent and meaning of thoſe words was only to inforce ſome Arguments I had uſed for *Liberty*, which my Friend inclined to think I had too confidently advanced; and no wayes to aſſume to my ſelf an authority for writing what I really neither had writ, nor intended to write. There being nothing more certain than that, although his *Majeſty* might have permitted me, as he doth many others, to uſe my little endeavours for the advancing of his Service, yet it was never either thought by my ſelf, or moved to me by any other, to write to your Lordſhip, or to any other Perſon, either in his *Majeſties* name, (a preſumption and indecency which I cann ot mention without bluſhing) or in the name of any of his Secretaries: And neither was there the leaſt neceſſity to inquire into their Highneſſes thoughts in the aforeſaid matter, ſince they were already perfect-

ly

ly known, and to none more diſtinctly than to his *Majeſty* himſelf, as all my Letters do very plainly ſuppoſe.

Seeing therefore that this laſt Print doth, in ſeveral paſſages, intimate that your Letter of the Fourth of *November* was not only a true Letter, but publiſhed by your order, (tho I know not why it ſhould inſinuate as if that Letter had been firſt printed in *England*) and that any thing relating to me is manifeſtly extrinſick to the point of the reality of your Letter; I cannot but again in all humility wiſh that *Your Lordſhip* had forborn to preſs ſo hard upon me, for juſtifying a Publication which evidently was a pure Act of your own free choice, and no doubt calculated for a far different End than what was by me intended.

But ſince I have acknowledged that you did me the honour to write to me, and that you now own the printed Copy to be the true Copy of what was ſo writ, and thereby as it were call me to conſider it more particularly; I ſhall no longer decline the liberty you allow me, but freely explain my thoughts upon it in all ſincerity; and ſubmit them to your profound Judgment; Eſpecially ſeeing it is in order to no other Ends than thoſe I formerly propoſed, and which I am perſwaded You approve as much as I do.

What you declare to be their Highneſſes thoughts and opinion, concerning the Repeal of the *Teſt* and *Penal Laws*, as it was not the Subject of my Inquiry, ſo is it above the Sphere of my Conſideration; only ſeeing They ſeem to be under no reſtraint, as to a full com-

 pliance

pliance with his *Majeſties* deſign, except from their care of the Security of the Proteſtant Religion, I am not without hopes that, when they ſhall have conſidered his *Majeſties* no leſs expreſs Purpoſe for the Eſtabliſhment of Liberty, (the only Secular Security and Advantage that Gods Religion requires) than for the procuring of the aforeſaid Repeal in order to Men's juſt Relief, Their Highneſſes ſecond Thoughts may yet happily advance, and ripen ſo fair an Appearance.

But the Queſtion, as by me formerly ſtated, was preciſely, 'Whether all Proteſtant Diſſenters ought not 'to concur with his *Majeſty*, by contributing their beſt 'Endeavours to have the Penal Laws in matters of Re-'ligion and Conſcience abrogated, and the preſent Li-'berty legally Eſtabliſhed and Fixt; And whether, if 'his *Majeſty* ſhould in Favour of his *Roman Catholick* Sub-'jects think fit to make the abrogating of the Teſt a con-'dition of the continuance of his Grant of Liberty, He 'ought not in this alſo to be readily gratified, for ſo great a 'Favour. Now your Agreement as to the entire abrogation of all Penal Coercive Laws is altogether becoming your Sound Judgment and Chriſtian Charity. Your Heſitation ſeems to be about the Law of the Teſt, and thoſe other Laws made for excluding *Roman Catholicks* from Publick Truſts, and ſecuring the Proteſtant Religion; to the repeal whereof you think no Proteſtant can in Conſcience conſent. And the ſum and force of all your Reaſonings reſolves into this; *That the Laws for the Teſt and diſabling Roman Catholicks to enjoy Publick Truſts contain no Severities againſt them, nor import any wrong that any who cannot comply*

with

with their Conditions ought juſtly to complain of; But that they were fairly made according to the Cuſtom of all Chriſtian States, and the very Natural Right of all Politick Bodies, who have ever made Laws for ſecuring the publick eſtabliſhed Religion, and their own Safety, by excluding the Enemies thereof from all Publick Employments. And the Law for the Teſt being of this Sort, you conclude that the Repeal of it would take away all the Security of the Proteſtant Religion, and expoſe the Nation to moſt certain Danger; Becauſe All Governours do naturally favour thoſe of their own Religion; and the way of Roman Catholicks is ſo unequal towards Proteſtants, that it muſt be concluded they would never agree with them in the joynt-adminiſtration of Publick Truſts, but would preſs his Majeſty in Conſcience until they were poſſeſſed of All, even to the depriving Proteſtants of the Support of the Law, and Protection of the Magiſtrate. So that on the one hand it is indeed manifeſt by the whole ſubſtance of your Diſcourſe That, if the Repeal of the Teſt and Admiſſion of *Roman Catholicks* to Publick Employments do take away all the Security of the Proteſtant Religion, and expoſe it to Ruin; then no true Proteſtant ought to conſent to it: But on the other hand it follows no leſs evidently, That if it can be ſhewed that the Proteſtant Religion may be ſufficiently ſecured without the Law of the Teſt, and moreover that the Legal Eſtabliſhment of the preſent Liberty (as deſign'd by his Majeſty) doth in all probability tend more to the Advantage than Prejudice of the Proteſtant Religion; then they both may, and ought to do it

But becauſe the matters in hand do, above all others, require a clear and ſound minde, free from all preju-

dice and pre-poſſeſſion, and are not to be determined by general rules only and abſtract notions, but ought to be examined with a juſt exactneſs in all their circumſtances; Before I go any further, I muſt intreat you (in the firſt place) to remember the ſolid Reflection you make in your Letter upon the Spirituality & Heavenlineſs of the Chriſtian Religion: Which I am ſure, if duly conſidered and improved, would not only convince others, as it doth you, of the abſurdity of all forcible and compulſory methods for its advancement, but alſo compoſe and ſweeten Mens minds, and thereby prepare them to a more clear underſtanding and equitable determination of the point in Controverſie.

That Faith and Obedience towards God (which are only ſo far acceptable to him, ſo they proceed from a willing minde) cannot be conſtrained, without an open mockery of God, and violence to the rights of Men, is a plain dictate of Reaſon, which all Times and Diſpenſations have acknowledged. But more eſpecially that gentle Spirit of the Goſpel, which Chriſt ſo often owns and recommends, and whoſe Characters are ſo viſible in all his own and his Apoſtles Practices, ſeems to carry the thing yet a greater length. I need not put you in minde that the Goſpel was not ſent (as the Law) unto One, but unto All Nations; that our Lord, by aſſerting his Kingdom not to be of this World, doth not only aſſure to all men their Civil Rights, as then by them poſſeſſed, but in my opinion removes its Adminiſtration further than is commonly ſuppoſed from all Secular Mixtures; And that God's Choice of the Fooliſhneſs

neſs and Weakneſs of Men for its Propagation (deſigned edly and expreſly to the greater commendation of the power of his Grace) doth very probably ſupercede much of that humane Caution which men have thought fit, but never with any Succeſs, to add to his better Counſel. But undoubtedly if any man ſeriouſly ponders how the Goſpel at firſt ſet out, and how by its own pure and ſpiritual Weapons, without any aſſiſtance of men's Laws, it proſpered, to the ſubduing of the World; and at the ſame time call to mind that certain Truth, That every thing is beſt preſerved by the ſame Cauſes that produced it; He will hardly be induced to think that theſe Excluſive Laws, which you ſay are now ſo Cuſtomary in all Chriſtian Kingdoms and States, are indeed ſo neceſſary as is imagined for the Conſervation and Security of Religion. For my part, when I reflect on plain matter of Fact, *viz.* That when the Goſpel did at firſt get footing in Cities or Kingdoms, and its Diſciples came afterwards to be perſecuted by the Government and Body of the People, ſtill *Pagan*, (it may be by Teſts as well as other Penal Laws) they did not lay the ſtreſs of their Apologies upon the Truth of their Profeſſion (which they knew their Perſecutors rejected) but only upon their Civil Rights and Liberties, as Men; I cannot but think it very unjuſtifiable for the ſame Perſons, or others of the ſame Perſwaſion (when afterwards grown more numerous and powerful) to retaliate the ſame dealing to their old Adverſaries. But, not to preſs too hard upon theſe Excluding Laws, which I believe many, thinking piouſly that Gods Gift deſerved their beſt care, have

have introduced in great ſincerity; I ſhall only add, that as it is evident they were never any where enacted for the Preſervation of Religion, until Religion had firſt prevailed and done its greateſt work, So the beſt Effects they have ever produced, have always been, either to make Hypocritical Converts, or elſe to diſtinguiſh, irritate, and unite into a Factious Obſtinacy, ſuch as in probability would ſooner have yielded to a more equal and moderate Treatment. But the beſt of it is, That tho a RulingClergy,(the worſt of Politicians)have always been obſerved to be moſt forward to procure ſuch Sanctions, Yet are they ſtill but Human Laws and Expedients, and therefore abſolutely at the diſpoſal of the ſame Powers that made them.

But in the next place, Since you have been pleaſed to interpoſe ſo far in our Affairs, let me now intreat you to enlarge your Thoughts a little further upon our preſent Circumſtances. The King is our Soveraign; And his Majeſties Perſwaſion and Religion, with what he hath already done, and may hereafter do, as alſo what he deſigns to have done in Parliament touching this Liberty, are ſufficiently known: Nor are you altogether a Stranger to the State of Religion, the Parties who compoſe it, the Laws made about it, and the Effects they have produced, within theſe Kingdoms. Now for my part, I heartily wiſh that the *Church of England* had always been as much Proteſtant as at preſent ſhe pretends to be; That now, when ſhe hath leiſure, She may no leſs zealouſly mind and cleave to her own Doctrine, and its ſincere Lovers, than ſometime we have ſeen her violent for her Ceremonies,

Ceremonies, and angry at Men that were not of her Faſhion; and, what ever may be the iſſue of things, That all *Proteſtant Diſſenters* may always love her more (if more be poſſible) for our agreement in Subſtantials, than ſhe hath hated and perſecuted them for their diſagreement in Circumſtantials. But conſidering what opinion ſome Men have entertained about the good effects of theſe Penal and Excluſive Laws, And, on the contrary, what Sufferings many Thouſands of *Proteſtants* have in all times undergone, and ſhould ſtill in all appearance have undergone by them, even to their utter undoing, if his *Majeſty* had not graciouſly vouchſafed to hinder it; And obſerving at the ſame time how improbable, or rather impoſſible, it is that the *Church of England*, if in Power, ſhould either remain without thoſe Laws, or ſuffer thoſe Laws to remain without Execution; I muſt humbly crave leave to ſay, that for *Proteſtant Diſſenters* to neglect the preſent opportunity, and not to comply with his *Majeſties* pleaſure to have them totally and for ever abrogated, is, in my opinion, no better than to reject the Goodneſs of God, and to abandon themſelves to their Adverſaries. It hath been the fate of theſe Kingdoms ſince the firſt beginning of our Reformation, that all Parties, *Papiſt*, *Proteſtant*, *Prelate*, *Presbyterian*, and *Independent* alſo, have in their ſeveral turns, both practiſed Perſecution and repented their doing it: And now of late when the laſt Scene was the blackeſt, and mens troubles were further hightened by their apprehenſions of what was to come, it hath pleaſed God to raiſe us up a *Prince*, Who tho he be of another Perſwaſion, and had

had (as all thinking men muſt grant) the faireſt advantage to promote it, by purſuing only thoſe methods which he found ready diſpoſed to his hand; yet hath been pleaſed, out of his juſt conſideration of the true Rights of God and Man, and his tender and fatherly care of all his People, to deliver us out of bondage, and introduce us into a State of Chriſtian Liberty. This as it is his *Majeſties* peculiar glory, denied to all his predeceſſors, ought the rather to be cloſed withal by his People. And ſurely we are not juſtly blamable, if neither the unhappy relicks of old Prejudices, nor preſent Jealouſies, nor even future Hopes, do hinder us from embracing the preſent opportunity of ſecuring to our ſelves and to our poſterity ſo great a Bleſſing.

The greateſt part of what I have here ſaid I know you will readily aſſent to, and that it is only the Law of the *Teſt*, (which you judg to be both righteous and neceſſary) that you would have ſtill maintained. And therefore (referring my full Anſwer upon that head to its proper place) I ſhall only here again put you in mind that the *King* is our Soveraign, whoſe power goes far, both as to the beſtowing of Publick Imployments, and alſo as to the continuing or reſtraining of our preſent Liberty at his pleaſure; That it is to me unaccountable how any *Proteſtant* ſhould think the enjoyment of our preſent Liberty not to be more valuable than all our excluſive Laws; and that, as I have above given a hint of my own ſenſe of all ſuch human cautions, ſo I hope it will eaſily be made appear, that there is neither that ſecurity in the *Teſt* nor danger in its Repeal, which

ſome

ſome Men, pretending in ſhew to keep up the *Teſt* againſt *Roman Catholicks*, but intending in reallity to keep up the *Penal Laws* againſt Proteſtant Diſſenters, would gladly have you and other Strangers to believe, on their bare aſſertion.

But further yet, I would again humbly beſeech you to obſerve, that it is not a ſimple Repeal of *Teſts* and *Penal Laws* that his Majeſty propoſes, but really and principally the Eſtabliſhment of an equal and fair Liberty; which is the onely Secular Advantage, as I have already ſaid, that true Religion requires. Men talk ordinarily of the repeal of *Teſts* and *Penal Laws*, as if that were the only thing intended: And thereupon their Minds are immediately over-clouded with this Prejudice; That *the* Proteſtant Religion *moſt needs be thereby diveſted of all Legal Security*. Whereas on the other hand, if they would take notice how careful *His Majeſty* hath been in His firſt *Proclamation*, and in His Anſwer to moſt of the *Addreſſes*, to declare himſelf for ſuch a juſt and ſecure *Liberty of Conſcience* as may for ever ſet us free from Perſecutions and Impoſitions, and how, in His late *Proclamation* of the Twenty ſeventh of *April* laſt, He publiſheth his Reſolution to uſe his utmoſt indeavours '*to eſtabliſh* '*Liberty of Conſcience on ſuch juſt and equal Founda*'*tions as will render it unalterable, and ſecure to all Peo*'*ple the free exerciſe of their Religion for ever*; They might eaſily reſt ſatisfied that the *Proteſtant Religion* is to loſe none of the Security ſhe now enjoys, by all that is intended; ſave only the power of Perſecuting and Impoſing upon others, which you your ſelf do Condemn.

It is true, you think the impoſing of *Teſts* upon all Perſons in publick Imployments is no undue Impoſition. But whether it be ſo or not, and whether the Law of the *Teſt* be that great and indiſpenſible Security of the *Proteſtant Religion* which you indeavour to make it, I ſhall now go on to conſider. And becauſe in effect nothing can be added to what hath been ſo fully ſaid, and often repeated, by others, on this Subject, I ſhall do it with all poſſible brevity.

You ſay then againſt the repeal of the Law of the *Teſt*, and other excluſive Laws; Firſt, *That they contain no unjuſt Severity.* 2dly, *That ſuch Laws are agreeable to the Right and Rules of all Kingdoms and Civil Societies, and are uſed in all Chriſtian Kingdoms and Common-Wealths.* And 3dly, *That they are the chief Security of the* Proteſtant Religion *in theſe Kingdoms, and that the taking them away would expoſe both the* Proteſtant Religion *and the People of theſe Kingdoms to Danger and Ruin.*

As to the firſt, whether the excluſive Laws contain any unjuſt Severity I ſhall not much contend. It is known that within theſe few Years we have had in *England Teſts* of ſeveral Faſhions, and for divers Perſwaſions, and that ſome of them have been ſo ſevere as to throw Men not only out of publick Imployments, but out of their private Callings, and ſo to deprive them of their *Daily Bread.* A Man may alſo adventure to ſay that, all things duly weighed, *Thoſe pretended pious and political Teſts* have in our real Experience been more prejudicial to the true Intereſt of Religion, and the Peace and Wel-fare of theſe Nations, than ever their total Repeal can, in the moſt

ſtrained

ſtrained rational Conjecture, be hurtful to either of them. So ſtrange and unaccountable a thing is this humour of Teſting.

But ſeeing you ſeem to confine your ſelf to the *Teſt* againſt *Roman Catholicks* appointed principally for the two Houſes of Parliament, I ſhall add more particularly; *Firſt*, that according to what I have above touched, this appears to be but an extraneous unwarranted human Caution, and that it may juſtly be thought ſtrange that, after Religion had through its own heavenly Power and Methods prevailed againſt all the human Laws, Councils, and other hinderances that ſtood in its way, Men ſhould relaps, from ſuch Divine Grounds of Confidence, to their own weak Contrivances, for its ſupport and continuance: And further, that, however innocent you may now judge this Injunction to be; *Take the* Teſt, *or quit all publick Imployments*; Yet I am fully aſſured, that, If in the Primitive times a *Prince* or other *Magiſtrate*, turning *Chriſtian*, had, for the better Conſervation of his Religion, ſet forth an Edict to his ſtill *Pagan* Subjects, commanding them to *Turn from vain Idols to ſerve the Living and True God, or elſe to forſake all publick Places and Truſts*, He would have been Condemned for it by Chriſt and all his Apoſtles.

Secondly, That the effects of ſuch Excluſions in all times have been no better than their Cauſes; and that, inſtead of preſerving and ſecuring our *Religion*, they have onely brought into it hypocritical and falſe Converts, or provoked thoſe that were rejected to a more froward Obſtinacy, and worſe Practices, who otherwiſe might have been

been gained by *Gentleneſs* and *Patience*, which are the genuine Methods of true *Chriſtianity*.

And *Thirdly*, That thoſe who by Birth-right have a real Title to all the Honours and Priviledges of Peerage; and even All Men, Who, upon the like ground, do naturally judge that they have at leaſt an equal right of acceſs to Places and Preferments in the *Societies* whereof they are *Members* with others of their Degree and Quality, will never be perſwaded to think that there is no *unjuſt Severity* in thoſe excluding Laws which deprive them either of their acknowledged Priviledge, or no leſs valuable Pretenſions. And ſince you are pleaſed to tell us That it is their Highneſſes Judgment, *That no man ſhould be ill uſed becauſe he differs from the Publick and Eſtabliſhed Religion*, I queſtion a little how you can reconcile the *depoſing of Peers*, and *civil Excommunication* of all others, (which I am ſure is no good uſage) for not taking the *Teſt*, to ſo true and honeſt a *Judgment*. It is eaſie for men who have either got themſelves into publick Places, or got above the deſire of ſuch Places by a true *Chriſtian Mortification*, to ſay with you, *That it is but a ſmall, if indeed any, Advantage to have a ſhare in the Government*. But, on the other hand, If it be conſidered that, As hundreds of Freemen can willingly confine themſelves to the narrow corner of a private Houſe, who yet could not endure to be impriſoned in a Palace; So it is the Excluſion, eſpecially when lookt upon as Cauſeleſs and Unjuſt, that in this Caſe is really grievous; I am perſwaded no impartial man will undertake to vindicate the Laws that enacted it from a great meaſure of Severity. And this I ſay from ſo diſintereſſed

diſintereſſed and ſo unbyaſſed a Judgment, that, for my own part, I ſincerely proteſt that I am not only well content with my preſent Condition, but (if it might in any ſort facilitate his *Majeſties* Chriſtian deſign of *Liberty*) I would alſo readily conſent that all *Diſſenters*, and my ſelf amongſt the reſt, ſhould be made incapable of all the more tempting publick Imployments for ever.

But for juſtifying of theſe excluſive Laws, you ſay in the ſecond place, *That they are agreeable to the Right and Rules of all Kingdoms and Civil Societies, to whom it was never denied to make Laws for their own ſafety, and for that end to preſcribe the Conditions and Qualities that they judge neceſſary for all that ſhall bear publick Imployments.* Now that all *Governours* may and ought to make rational and juſt Laws for their ſafety, and for the due conferring of their publick Imployments, is in my mind ſo little to be doubted, that it needed not at all to have been mentioned. The only Speculation proper for our caſe is, *Whether Theſe Excluſive Laws upon the account of difference in Religion*, be either warrantable or profitable. And ſeeing that I have already told you that they not only incroach upon Mens natural and civil Rights and Liberties, the principal Ends of Government, but do alſo in ſome ſort bring a conſtraint upon the Profeſſion of the Truth, which ought to be moſt free, and which the Apoſtle expreſsly will have *to ſtand not in the Wiſdom of Man* (ſuch as *Penal Laws* and *Teſts* are) *but in the Power of God*, or in the ſame ſpiritual and heaven-

ly means whereby it was firſt eſtabliſhed and is undoubtedly beſt preſerved, I ſhall not trouble you with Repetitions. I ſee you add that ſuch Laws have alſo been and are uſed in all Chriſtian Kingdoms and Common-Wealths; and you might as truly have ſubjoyned; That even *Proteſtants*, when prevalent, do by their Practices juſtifie *Roman Catholicks* in that very point for which they condemn them in their Diſcourſes. But tho I confeſs that there is nothing more natural than for Men to be anxiouſly careful to preſerve what they eſteem, and in this their anxiety to judge their own way the beſt, eſpecially when either Paſſion or Self-intereſt enter into the deliberation; Yet conſidering the experience we have had of the fruitleſneſs of theſe Excluſions, and that there is nothing more becoming Men profeſſing to be aſſured that their Religion is Chriſts true Religion, than to reſt upon the ſame methods for its conſervation which he, who had the choice of all, thought only fit to make uſe of for its propagation; and conſidering alſo that it hath pleaſed God ſo to order things, that his Majeſty (the Head & Fountain of the Government) is of a different perſwaſion from the main Body of the People, and ſo might juſtly turn all this your reaſoning againſt us; I can ſcarce forbear to wonder that Men ſhould refuſe the fair Equality which he propoſeth. Had it been the Divine Will that his Majeſty and his People had agreed in the ſame Profeſſion, it is more than probable that, whatever might have been

his

his Majeſty's Indulgent diſpoſition the preſent Queſtion would not have been moved. But ſince this is not our caſe, and that the Kingdom and Government are certainly in his Hands, I muſt crave leave to ſay that your Arguments from the Rights and Cuſtoms, and from the providencial Councils of all Governments, makes more againſt you than for you; and that I am very inclinable to believe that if the Soveraign Power were as much *Roman Catholick* in your Provinces as it is with us, it would produce ſuitable Effects. And therefore, ſince your Argument rather commends his *Majeſties* gracious Condeſcention, than any way impugns his Deſign, I cannot but wiſh that, in a matter in it ſelf ſo indifferent, it may accordingly perſwade all Men to a juſt compliance.

But becauſe the *Indifferency* I here mention is that which you can hardly bear, and that the force of all your Reaſonings lies in the third Point, *viz. That theſe Excluſive Laws are the chief Security of the* Proteſtant Religion, *and that the taking them away would expoſe the* Proteſtant Religion, *and the* People of theſe Kingdoms, *to Danger and Ruin*, I ſhall now proceed to examin more cloſely what you are pleaſed to ſay upon it: Not doubting, in the mean while, but we are fully agreed that the true and principal Security of the *Proteſtant Religion* conſiſts in its being the immovable Truth of God, which if well laid to Heart would contribute more to its Preſervation than all the *Teſts* and *Penal Laws* in the World; And in treating

ting you ſtill to remember that it is not a bare Repeal of *Penal Laws* and *Teſts* that his *Majeſty* deſigns, but the ſure and firm Eſtabliſhment of *Liberty*, (the only ſecular Advantage, as I have often ſaid, that Gods Truth requires) Which if rightly underſtood, and if a juſt diſtinction were made between the free Enjoyment of Civil Rights (the proper Object and End of Government) and that *Liberty of Conſcience* in matters of *Religion* over which God has reſerved to himſelf the incommunicable Right, would quickly bring the World to the happieſt State that it can ever attain to. - Theſe things, I ſay, being premiſed, I proceed to obſerve what you ſay for making out your Aſſertion, *viz. That the taking away of theſe Excluſive Laws would bring* Roman Catholicks *into both Houſes of Parliament and all other publick Imployments*; *That in theſe Imployments they would not agree with* Proteſtants; *But that becauſe of their contrary Principles, Jealouſies would ariſe, which his* Majeſty *would not be able to repreſs*; *And that there is a great difference between* Roman Catholicks *and* Proteſtants, *becauſe the former Exclude, Suppreſs and Perſecute, where ever they can do it ſafely*; *And if they were admitted into Truſts they would not only favour their own Religion, as all Men in Power do, but it would not be eaſie for the* King *to reſiſt them, becauſe they would preſs him in point of Conſcience*; *and that then* Proteſtants *would want all Support of Law, and Encouragement from the Magiſtrates.*

This way of Reaſoning, ſo manifeſtly proceeding from an over anxious Jealouſie, muſt needs be ſo much

much the leſs Satisfactory, in that it is obvious to all Men how much that croſs and froward Humour is diſpoſed to convert the moſt proper Antidotes for its Cure, into the Nouriſhment of its Malady.

But more particularly, *Firſt*, It is evident that the ſtrength of all objected, tho in ſofter Expreſſions, Is *That this deſign of Liberty is only pretended and carried on for the better advancement of Popery.* But, ſeeing his *Majeſty* hath in this matter declared the uprightneſs of his Intentions with the cleareſt and moſt forcible Expreſſions, delivered with all the binding Circumſtances of a full Aſſurance, which from a *Prince* of his Veracity and Firmneſs may be ſufficient to convince the moſt Incredulous, and alſo confirmed the Sincerity of his Purpoſe by the Evidence of things incapable of any conſiſtency with the Deſign ſuſpected, what place can be found for ſo improbable a Suggeſtion? For it being undeniably evident to all conſidering Men that the plain contrary Methods to what his *Majeſty* now practiſes had been the moſt direct and effectual Ones for the introducing of *Popery*; and that the preſſing and carrying on the Execution of *Penal Laws*, begun to his Hand, might in all human appearance have broken and undone that Party which has in all times been judged remoteſt from, and moſt Oppoſite and Zealous againſt *Popery*; and ſo have left that other Party, the *Church of England*, (who after the acting of ſuch an unchriſtian Perſecution, would never have been ſtrong enough nor have had the Hearts to indure the like, and whoſe ſequacious Temper in matters of Religion, falling in with the Intereſt of their Livings and Dignities,

may abundantly be ſeen in our Records) to be the only feeble Defenders of *Proteſtancy*, already more than half ruined; Ought not his *Majeſties* Moderate and Generous Deportment ſo contrary to thoſe Methods for ever free Him from ſo foul a Suſpition? This real and moſt ſenſible Demonſtration of his *Majeſties* Truth and Sincerity is ſo much the more to be regarded, in that it is known how His entry into the Government was fortified with the ſuppreſſing of Inſurrections; which not only might have rendred His Power more terrible, and provok'd Him to greater Severities, but alſo might have been made uſe of to have involved one way or other (no new thing in the World) a great part of the *Diſſenters* in the Fate and Ruin of thoſe broken Parties.

But, *Secondly*, although you ſay *There is a great difference betwixt Roman Catholicks and Proteſtants in the buſineſs of Perſecution*, Yet in the preſent Controverſie, I muſt beg leave of you, and all *Proteſtants*, to ſay that this comes ill from thoſe of the *Church of England*, whoſe Excluſions, Suppreſſions and Perſecutions, (to uſe your own terms) all things conſidered, are in the Judgment of many ſober People more Unchriſtian (tho perhaps not ſo Severe) than any of thoſe deplorable Inſtances which you ſay are in many places abroad this Day before our Eyes. It is true that Strangers, having eaſier opportunity to know the Doctrine of the *Church of England*, agreeing with that of the beſt *Proteſtants*, than to obſerve their dealings with their Diſſenting Brethren for the rejecting of her Ceremonies, can ſcarce think it poſſible that this Difference ſhould have produced ſo Violent

olent a Perſecution; eſpecially againſt ſuch who immediately before had done them the greateſt Service, in contributing ſo readily to the means of their Reſtitution. And it is true alſo that ſome of that Communion, eſpecially in your Parts, (as appears by their late Prints) do endeavour to Apologize for their former Rigours and Cruelties, partly by exclaiming againſt Perſecution, and partly by ſuggeſting that the late Severities uſed againſt *Diſſenters* were ſet on Foot by a *Popiſh Party* and Deſign at Court, on purpoſe to increaſe their Number and render them more unquiet, that ſo the *Parliament* might have been conſtrain'd to grant a general *Toleration* wherein the *Roman Catholicks* might be included; The great Deſign of this Miſtery. But the firſt of thoſe Excuſes being now too late, and the other being falſe, and viſibly affected; I cannot but ſtill wiſh that this their extraordinary Zeal for the Excluſion of *Roman Catholicks* be not a meer effect of their itch after their former Power and Practice of Perſecuting *Proteſtant Diſſenters*; and withal that the Remembrance of our late Sufferings may put *Proteſtants* as well as *Roman Catholicks* in mind of their Failings, to the end that all Parties may become more ſober and averſe to all manner of Perſecution for ever.

Thirdly, Seeing you lay the greateſt ſtreſs of your Argument upon the hazard that you pretend lies in the making of *Roman Catholicks* capable of, and giving them Entry into publick Imployments, and particularly to take places in both Houſes of Parliament, I intreat you to obſerve that it is evident in point of fact, that *Roman Catholicks* are already in many Publick Imploy-

ments

ments, and that thoſe Imployments will always depend, as they have ever depended, upon the pleaſure of the *Prince Regnant*: So that conſidering how it is with us at this preſent, any Man that is poſſeſſed with this Fear ought rather to rejoyce then to be grieved at his *Majeſtie*'s deſign of *Liberty*; Becauſe it plainly carries a Relief againſt this Apprehenſion, by opening a Door to *Diſſenting Proteſtants* alſo to enter into ſuch Imployments, who are not forward to do it while the reſtraining Laws, that lie upon them alſo, remain in force. And as his *Majeſty* hath already begun to ſhew his Equality in conferring of Publick Imployments as well on *Diſſenters* as on *Roman Catholicks*, the taking away of thoſe Laws will certainly induce Him to a yet greater Freedom in that particular. Whereas on the contrary, it is more than probable that the refuſing to gratifie Him in that Repeal, may, inſtead of hindering *Roman Catholicks* to be further imployed in Publick Truſts, rather provoke Him by the diſobligation to intend the thing more vigorouſly; and alſo irritate that whole Party, (who muſt needs look upon this Denyal for the preſent as a Threatning for the future) to more extraordinary and worſe Courſes. And as to what is commonly ſaid, that the keeping up of the *Teſt* will at leaſt be a Bar to many, who otherwiſe might be tempted to turn by the Bait of a good Imployment; as alſo that it will be ſome Reſtraint upon ſuch as are advanced, and make them act moderately; I muſt crave leave to ſay that the contrary is to me far more probable: For whoſoever can be ſuppoſed capable to turn for a place, will certainly

certainly time his turn, ſo as that it may have moſt of Merit; and conſequently will rather ſeek to recommend himſelf by a frank reliance upon the Kings Declaration for Liberty, than come in ſneakingly afterwards under the Security of the deſired Repeal; Eſpecially when it cannot be doubted but that, both by the Fundamental Laws of Goverment, and alſo by the force of his Majeſtie's Prerogative, from which no Succeſſor will willingly derogate, thoſe that are or ſhall be imployed are in all Events ſecured; And that at leaſt it is incontravertibly as ſafe for a Man to accept of a publick Imployment as to go to a Conventicle.

Fourthly, The moſt material Conſideration on this Point ſeems to be much by you neglected, *viz. That we are not in the condition of an abſolute free choice, but under the limited offer of a plain alternative, I mean, Either that the preſent Liberty ſhall be continued on condition that the reſtraints of* Teſts *be alſo taken off from* Roman Catholicks; *or elſe, if this be denyed, that the other ſhall at leaſt become more precarious.* Now, whether a true *Proteſtant*, having the fear of God, (as you expreſs it) in this Conjuncture, and in a juſt view of all our Circumſtances, may not very allowably think that the free Liberty of the Goſpel (as being Gods way) is more valuable, as to the Intereſt of the *Proteſtant* Religion, than the excluſion of a few *Roman Catholicks* from having Place in Parliament, (for to this narrow Compaſs we ſee it plainly brought) which is but Man's way; and whether this laſt may not well be conſented to, for the eſtabliſhing of the firſt, let all Impartial Men judge.

You tell us that *If the* Proteſtant Diſſenters *ſhould, upon this account, be deprived of their Libetty, the* Roman Catholicks *are only to blame for it*; Who, rather than be reſtrained from having a ſhare in the Government, do chuſe to have both themſelves and the *Proteſtant Diſſenters* ly ſtill under the weight of the *Penal Laws*. But if the propoſal made to the Diſſenters be fair, and their complyance not ſinful, you muſt of neceſſity grant that for them to be diſpoſſeſſed of their Liberty (the great concern of their Souls, and the beſt method of ſupporting true Religion) is but poorly repaired, by telling them that the *Roman Catholicks* are to blame for it.

Fifthly, Your frequent ſuppoſing *That the* Roman Catholicks *will be ſtill attemping to overturn the* Proteſtant Religion, *and diſturb the Kingdoms Peace, and that they will get into all places of Truſt, and preſs the* King *in Conſcience, and give Him no reſt until they accompliſh their Deſigns*, appear to me to be too manifeſt improvements of a melancholy Jealouſie. For, as hath been often ſaid, It is not a ſimple Repeal of *Penal Laws* and *Teſts*, but the Eſtabliſhment of an equal Liberty, whereby the *Proteſtant* as well as the *Roman Catholick* may be ſecured againſt all Perſecution, that his Majeſty deſigns. So that it is not poſſible that you ſhould judge the Repeal of the *Teſt* to be the licenſing of *Roman Catholicks* to attempt the ruin of the *Proteſtant Religion*, unleſs you think that the *Proteſtant Religion* can never by Law be ſecured againſt the attempts of others, if it be not at the ſame time armed with a Power to perſecute them.

Sixthly,

Sixthly, You tell us, *That* Roman Catholicks *are not ſhut out amongſt you from Military Imployments, and that it had been hard to have done it; both becauſe the good Services they did you in the Wars for defence of your Liberty deſerved that Recompence; and becauſe their Numbers being but few, any Inconvenience ariſing from their admiſſion might eaſily be prevented.* Now by this you plainly acknowledge that this whole matter is ſubject to a Rational Deliberation, and is to be determined by the weighing the Conveniencies and Inconveniencies that attend ſuch an Admiſſion or Excluſion, without entering into any deeper reflection, about the Lawfulneſs or Unlawfulneſs thereof. And further, I muſt tell you that his *Majeſty* has not only the ſame Conſiderations that you mention to move Him in Favour of his *Roman Catholick* Subjects, but, all things conſidered, I think it may very well be aſſerted that the admitting of *Roman Catholicks* with you to Military Imployments is much more unneceſſary, than the admitting of them with us to place in Parliament (upon the Conditions declared) can be dangerous; and that if the Adventure be on this ſide more hazardous, yet it it compenſated with counterbalancing Advantages, that render it much more excuſable than your unneceſſary Practice.

Seventhly, Tho you are pleaſed according to your ordinary Prudence and Moderation to propoſe your Fears with much Modeſty, yet others there are in your Parts, as well as here, who ſpeak out the Devices of their own Imaginations more plainly, and tell us *That if the* Teſt *were taken away, his* Majeſty *might by a new Creation of Peers, and by bold Returns into the Houſe of Commons, get a Parli-*

ment of ſuch a Temper as would abſolutely forbid the Exerciſe of the Proteſtant Religion, *Revive the Act* De Comburendo *and make yet greater Alterations in the Government.* But how vain and groundleſs, to ſay no worſe, theſe Apprehenſions are may appear by what his *Majeſty* hath already done in putting a ſtop to our late Perſecution; which in the opinion of many might have carried on that change in Religion more effectually (becauſe more eaſily and inſenſibly) than the Act *De Comburendo*, and all the Fires that it kindled. Beſides, whatever be the Security that Men aſcribe to theſe Excluding Laws, it is only from the force they have as Acts of Parliament that it ariſes. Why then ſhould not the ſame force of a Law as well ſecure the *Proteſtant Religion* in its juſt Liberty, without the Power of perſecuting, as now its thought to do with it? And as for the Facility the *King* may have to fill both Houſes with *Roman Catholicks*, when the *Teſt* ſhall be abrogated, Why may he not as well firſt fill them in that manner, and abrogate it afterwards? For it is judged by many to be no leſs than a Fundamental in our Government that the *King*'s Call, with the *Peoples* Choice, and the *Lords* and *Commons* Aſſembling thereupon with his *Majeſties* Approbation, are all the Eſſentialls of a Parliament; and that no Parliament can ſo pre-engage and limit another, by any Act or Oath, that it cannot Act as a Parliament until it firſt comply therewithal. If ſuch a Power of Limitation were admitted, One Parliament might, by an Oath framed for the purpoſe, reſtrain, weaken, and even make

void

void the Power of all ſucceeding Parliaments for ever? So long indeed as *Oaths* and *Teſts* appointed by Acts of Parliament do ſtand unrepealed, they are undoubtedly binding. But to think that One Parliament can ſo bind up and preſcribe Rules to Another, that, tho it may repeal the very Act ſo binding and preſcribing, yet it hath not Power to do ſo till firſt it ſubmit it ſelf by Oath unto the Rules preſcribed (and then perjure it ſelf by the Repeal) is an Abſurdity againſt the very Eſſence of Parliaments.

But *Laſtly*, As matters ought not to be ſtrained on either ſide, (eſpecially when all things concur on his *Majeſties* part to perſwade to a fair and right underſtanding, in order to the eſtabliſhing of Peace, ſecuring of Right and Property, and the putting an end to our ſo unnatural and unchriſtian Perſecutions) So it cannot be doubted by any diſcerning Perſon, that the preſent Security of the *Proteſtant Religion* in theſe Kingdoms doth ſcarce at all depend on either *Penal Laws* or *Teſts*, but principally on his *Majeſties* Wiſdom and Moderation, on the Conſtitution of our Government, and on thoſe juſt Arguments for mutual Forbearance, which our preſent Circumſtances do forcibly ſuggeſt to all Men, of all Parties, that are capable to underſtand their own Intereſt, and have not wholy abandoned the care of it. Seeing therefore that it remains evident, from what hath been ſaid, that all theſe Exclufive Laws upon account of Religion, however Legal they may be called, are no ways Evangelical; and that though they may have been at firſt piouſly intended for the Conſervation of Religion,

and

and for the publick ſafety, yet in the event they have always proved unprofitable and unpolitick; And ſeeing alſo that all the Jealouſies ſo induſtriouſly raiſed to obſtruct his Majeſties preſent Deſign of Liberty are ſufficiently removed, not only by the aſſurance of his Royal Word, and the manifeſt engagement of his Honour, but by the demonſtrative Evidence that lyes in the circumſtances of things themſelves, I cannot but heartily wiſh that all Men, and above all their Highneſſes, may give their effectual concurrence to ſo good and great a work. It is I confeſs, as you ſay, very natural for All perſons in Power to favour thoſe of their own Religion; And this in my Opinion ought to oblige us to make the faireſt conſtruction of what his Majeſty doth in behalf of thoſe that are of his. But it muſt alſo be acknowledged that it is a very extraordinary, and a moſt noble and generous Diſpoſition, in his Majeſty, to be ſo gentle and indulgent to thoſe of his Subjects that are of a different Religion from his: And that ought to beget in us an intire confidence in what he promiſes, and perſwade all his Subjects, of what Profeſſion ſoever, to reſt aſſured both of a firm Support in the deſigned Law of Liberty, and of a favourable Protection in his Majeſties Authority.

In my former Letters I adventured to inſinuate to my Friend how much I judged their Highneſſes obliged, as well by their own intereſt and that of the *Porteſtant Religion*, as by their Relation to his Majeſty, to comply with him in this Affair. But that being a Subject too high and too delicate for me to ingage any further in, I will not now preſume to add any thing further upon it.

My

My Lord, having thus faithfully repreſented to you ſuch thoughts as have occur'd to my mind upon the peruſal of your Letter, I judge it not needful nor decent for me to enter into further particulars; As how this Liberty may be eſtabliſhed, to all the Intents and withal the Advantages above mentioned. But, in my humble Opinion, his *Majeſties Proclamations* of the fourth of *April* 1687. And of the twenty fourth of *April* laſt, are a very excellent Foundation for that Work; which I wiſh were compleated by a Parliamentary Ratification, to the vindicating of the Divine Right of Religion and Conſcience from all Human Impoſitions, the confirming of our Peace, and the Advancement of his *Majeſties* Glory and the Kingdoms Proſperity. It is no doubt a great Undertaking to offer to ſatisfie all the Jealouſies and Fears that, in ſuch high and tender matters, may ariſe from the conflict of ſo various Intereſts as are concerned therein. But this ſmall Eſſay that I have made, being truly involuntary, & ſuch as your Lordſhip hath in a manner extorted from me, I hope thoſe Conſiderations will be accepted as a juſt Apology for my having thus far purſued it in all Sincerity. And for the future tho I am firmly reſolved to meddle no more in ſuch Debates, Yet I ſhal always remain, as I acknowledge my ſelf to be indiſpenſibly obliged,

My Lord,

Edinburgh, May the 8th, 1688.

Your Lordſhips moſt Humble and moſt Obedient Servant James Stewart.

FINIS.